

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

MICHAEL LOCKLEAR,

Petitioner,

v.

Case No. 04-C-799

QUALA CHAMPAGNE and CHERI MAPLES,

Respondents.

ORDER

Petitioner Locklear has filed a motion to amend his petition, seeking to add two respondents and to more clearly articulate his claims (now that counsel has been appointed). The respondents have only one objection, namely that they do not believe the state's attorney general should be added as a proper respondent. Rule 2(b) of the Rules Governing Section 2254 Cases indicates that the attorney general may be a proper respondent when the petitioner is "not yet in custody". Here, the petitioner is on parole, which may be considered "custody" for habeas purposes, *see Jones v. Cunningham*, 371 U.S. 236 (1963), and therefore the attorney general does not appear to be a proper respondent. Cheri Maples, the parole administrator, is more properly viewed as Locklear's custodian and has been added as a respondent. Accordingly, the motion to amend is **GRANTED** in part and **DENIED** in part, as set forth above. Respondents have summarily renewed their motion to dismiss, and that motion is **DENIED** for the reasons stated in my earlier decision and order addressing that issue.

The briefing schedule will be as follows:

The petitioner shall file his brief supporting his petition by December 15, 2005;

The respondents shall file a response brief by February 1, 2006; and

The petitioner shall file a reply brief, if any, by March 1, 2006.

SO ORDERED.

Dated this 2nd day of November, 2005.

s/ William C. Griesbach

WILLIAM C. GRIESBACH

United States District Judge